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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,315	08/23/2006	Dyna Kellie Predebon	A-10172	8142

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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3673

MAIL DATE	DELIVERY MODE
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12/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,315	Applicant(s) PREDEBON, DYNA KELLIE	
	Examiner Carlos Lugo	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's preliminary amendment filed on August 23, 2006.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "17" has been used to designate both as a latch tongue and as a leg.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:
 - Element 18 is not illustrated in the drawings.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:
 - Element 17a is not described in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. **Claims 1 and 3 are objected** to because of the following informalities:

- Claim 1 Line 6, change "the edge" to -an edge-.
- Claim 3 Line 2, change "comprising a plush toy" to -wherein the toy is a plush toy-.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claim 7 contain** the trademark/trade name Velcro. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a hoop and loop connection (21) and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 1-6 and 9 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,004,279 to Radcliff in view of US Pat No 4,811,454 to Crook et al (Crook).

Regarding claim 1, Radcliff discloses a door stay comprising a first part (17) adapted to be supported by a door handle (5), a second part (19) adapted to be supported by the door handle (3) on the other side of the door, and an intermediate part (23 inside 11) that is adapted to extend over an edge of the door to prevent the door from closing.

However, Radcliff fails to disclose that a toy comprises the first, second and intermediate parts. Radcliff discloses a device comprising the elements without the ornamental part (the toy).

Crook teaches that it is well known in the art to provide a door closing device that comprises a toy (60) having a first and a second part (67) adapted to be supported by a handle and an intermediate part (the body of the toy).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device by Radcliff with a toy, as taught by Crook,

because is considered as a design consideration since the toy is considered as a mere ornament.

As to claim 2, Radcliff discloses that the door has a latch tongue (7) and the stay prevents the latch tongue from entering into a keeper on the door jamb.

As to claim 3, Radcliff, as modified by Crook, teaches that the toy is a plush toy having first and second arms. The arms comprise the first and second parts and the body of the toy the intermediate portion.

As to claim 4, Radcliff, as modified by Crook, teaches that the first arm member and the second arm member are provided with openings through which the door handle can pass to attach the respective arm member to the door handle.

As to claim 5, Radcliff, as modified by Crook, teaches that the openings are elasticized to enable the opening to be enlarged such that the handle can pass through the opening.

As to claim 6, Radcliff, as modified by Crook, teaches that the first part and/or the second part comprise an elastic band adapted to fit about the door handle.

As to claim 9, Radcliff, as modified by Crook, teaches that the first and second parts are joined by means of a band (11).

10. **Claim 7 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,004,279 to Radcliff in view of US Pat No 4,811,454 to Crook et al (Crook) and further in view of US Pat No 5,297,692 to Kronmiller.

Radcliff, as modified by Crook, fails to disclose the use of a hoop and loop connection (Velcro) on the first and second parts.

Kronmiller teaches that the use of hoop and loop (Velcro) to make a connection having a loop (22b) that grasp an object (15) in a door closing device.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first and second parts of the device described by Radcliff, as modified by Crook, as a hoop and loop connection strap that when is connected together it would create a supported piece, as taught by Kronmiller, in order to provide an easier way to assemble the first and second parts to the handles.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,004,279 to Radcliff in view of US Pat No 4,811,454 to Crook et al (Crook) and further in view of US Pat No 848,644 to Flegel.

Radcliff, as modified by Crook, fails to disclose the use of a ribbon to make the connection between the arms and the handle.

Flegel teaches the use of a ribbon (C) to make a connection between a door closing device and a handle.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first and second parts of the device described by Radcliff, as modified by Crook, with a ribbon to connect the device to a handle, as taught by Flegel, in order to provide an easier way to assemble the first and second parts to the handles.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 571-272-7058. The examiner can normally be reached on 10-7pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Carlos Lugo
Primary Examiner
Art Unit 3673

December 17, 2007.